

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

KEVIN BURNS, §  
§  
Plaintiff, §  
§  
v. § Civil Action No. 3:13-CV-00993-L  
§  
JPMORGAN CHASE BANK, ET AL., §  
§  
Defendants. §

**BDFTE DEFENDANTS' REPLY IN SUPPORT OF MOTION TO DISMISS**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COME NOW, Defendants Stephen C. Porter, Georgia Ann Bradley, Matt Lindsey and Barrett Daffin Frappier Turner & Engel, LLP (collectively the “BDFTE Defendants”) and file this reply brief in support of their Motion to Dismiss. In support thereof, the BDFTE Defendants respectfully show this Honorable Court the following:

1. On December 30, 2013, the BDFTE Defendants filed their Motion to Dismiss and Brief in Support (the “Motion to Dismiss”) seeking an order dismissing Plaintiff Kevin Burns’ (“Plaintiff”) claims against the BDFTE Defendants pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. (Doc 39).

2. On January 2, 2014, the Court entered its Order setting a deadline of January 20, 2014 for Plaintiff to file a response to the BDFTE Defendants’ Motion to Dismiss. (Doc 40). Separately, Local Rule 7.1(e) also establishes January 20, 2014 as the deadline by which Plaintiff must file a response to the BDFTE Defendants’ Motion to Dismiss.

3. On January 13, 2014, Plaintiff filed his Motion for Leave to Amend Pleading in which he requested an additional thirty days in which to “cure the

deficiencies [identified in the Motion to Dismiss] and state a cause of action upon which relief can be granted.” (Doc 47).

4. On January 14, 2014, the Court entered its Order denying Plaintiff’s Motion for Leave to Amend Pleading. (Doc 48).

5. Plaintiff has failed to timely file a response to the BDFTE Defendants’ Motion to Dismiss and, as such, the Court may consider it unopposed.<sup>1</sup>

6. Accordingly, the BDFTE Defendants respectfully request that the Court grant their Motion to Dismiss, with prejudice, and for any and all further relief to which the BDFTE Defendants may show themselves justly entitled.

Respectfully submitted,

MARIS & LANIER, P.C.

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<sup>1</sup> See e.g., *Simms v. Am. Int'l Group, Inc.*, No. CIV. 3:99CV2554-P, 2002 WL 87344, at \*1 note 2 (N.D. Tex. Jan. 16, 2002); *Dunlap v. Denison Indep. Sch. Dist.*, No. 4:09-cv-234, 2010 WL 3522425, at \*1 (E.D. Tex. Sept. 8, 2010); *In re ArthroCare Corp. Secs. Litig.*, 726 F.Supp.2d 696, 701 (W.D. Tex 2010); *Square D Co. v. Pioneer Breaker & Supply Co.*, No. A-07-ca-810-ss, 2009 WL 5170211, at \*9 (W.D. Tex. Dec. 18, 2009).

**CERTIFICATE OF SERVICE**

This is to certify that a true, correct and complete copy of the foregoing document has been served in accordance with the Federal Rules of Civil Procedure on the 30th day of January, 2014 to:

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